

Internal
C0070039
#3723
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EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Canyon Fuel Company/Dugout Canyon Mine
Permit #: C0070039

NOV # 10072
Violation # 1 of 1

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation**. Mark and explain each event.

- | | | |
|-------------------------------------|----|--|
| <input type="checkbox"/> | a. | Activity outside the approved permit area. |
| <input type="checkbox"/> | b. | Injury to the public (public safety). |
| <input type="checkbox"/> | c. | Damage to property. |
| <input type="checkbox"/> | d. | Conducting activities without appropriate approvals. |
| <input type="checkbox"/> | e. | Environmental harm. |
| <input checked="" type="checkbox"/> | f. | Water pollution. |
| <input type="checkbox"/> | g. | Loss of reclamation/revegetation potential. |
| <input type="checkbox"/> | h. | Reduced establishment, diverse and effective vegetative cover. |
| <input type="checkbox"/> | i. | No event occurred as a result of the violation. |
| <input checked="" type="checkbox"/> | j. | Other. |

Explanation: During a field inspection conducted on December 16th, 2010, orange staining of the Pace Creek channel was observed outside of the permit area. The orange staining is a result of mine-water discharged from the Pace Canyon Fan facility (UPDES Outfall 005) that contributed additional suspended solids to streamflow outside the permit area.

2. Has the event occurred? Yes

If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: High iron concentration mine water discharged from the Pace Canyon Fan facility (UPDES Outfall 005) resulting in an orange discoloration of the Pace Creek channel outside the permit area.

3. Did any damage occur as a result of the violation? No

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: NA

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

- ☐ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: _____

- ☐ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

- ☐ Was the operator in violation of a specific permit condition?

Explanation: _____

- ☐ Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: _____

- ☒ Was the violation a direct result of unforeseen underground conditions?

Explanation: Due to safety considerations in the underground mine-works, the Permittee was forced to seal the Gilson 8 coal panel prematurely resulting in the discharge of polluted water that produced the orange staining of the Pace Creek channel outside of the permit area.

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: Good faith should be granted in this instance. The Permittee self-reported the polluted discharge. Additionally, the Permittee has been actively and diligently exploring treatment options and is currently in the process of developing/modifying underground mine-water treatment options.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: _____

3. Was the submission of plans prior to physical activity required by this NOV / CO? _____ If yes, explain.

Explanation: _____

Steve Christensen
Authorized Representative

[Signature]
Signature

February 3, 2011
Date